

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ADVANTAGE POINT, L.P.	:	Civil Action No. 14-5517
Plaintiff,	:	
	:	
v.	:	
	:	
BOROUGH OF KUTZTOWN, KUTZTOWN	:	
MUNICIPAL AUTHORITY, PEGGY	:	
DEVLIN, SANDRA K. GREEN, GABRIEL	:	
KHALIFE, DEREK D. MACE, RACHAEL	:	
B. MARTIN, JAMES F. SCHLEGEL,	:	
EDWIN K. SEYLER, KEVIN J. SNYDER,	:	
LEE W. ERB, WILLIAM FOX, ANDREW	:	
SCHLEGEL, SHEILA FULTON, DONALD	:	
L. SECHLER, SSM GROUP, INC., DARYL	:	
A. JENKINS, CHRISTINA CRAWFORD,	:	
TIMOTHY G. DIETRICH, ESQUIRE,	:	
KEITH MOONEY, ESQUIRE, JEFFREY	:	
D. LOBACH, ESQUIRE, GEORGE	:	
WERNER, ESQUIRE, BARLEY SNYDER,	:	
LLC, JOSEPH A. O'KEEFE and MEL	:	
FISHBURN,	:	
Defendants.	:	

ORDER

AND NOW, this 30th day of June, 2015, it is ordered as follows:

1. "Defendants SSM Group, Inc., Daryl Jenkins, And Christina Crawford's Motion to Dismiss the Amended Complaint" (doc. no. 33) is **GRANTED**. The amended complaint is dismissed without prejudice. By Friday, July 17, 2015, plaintiff may file a second amended complaint. Plaintiff is directed to give due deference to the findings included in the Environmental Hearing Board's December 16, 2014 Adjudication in particular, and principles

of collateral estoppel in general, should it decide to file a second amended complaint.

2. “Defendants Borough of Kutztown, Kutztown Municipal Authority, Devlin, Green, Khalife, Mace, Martin, J. Schlegel, Seyler, Snyder, Erb, Fox, A. Schlegel, Fulton and Sechler’s Motion to Dismiss Plaintiff’s Amended Complaint” (doc. no. 37) and Defendants, Timothy G. Dietrich, Esquire’s, Keith Mooney, Esquire’s, Jeffrey D. Lobach, Esquire’s, George Werner, Esquire’s, and Barley Snyder, LLC’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6)” (doc. no. 56) are denied without prejudice.

BY THE COURT:

/s/ Joseph F. Leeson, Jr. _____
Joseph F. Leeson, Jr.
United States District Judge